

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

United States Courts
Southern District of Texas
FILED

for the

Southern District of Texas

March 16, 2019

United States of America)

v.)

Guadalupe Horacio GARZA-Cavazos)

YOB: 1962)

POB: Mexico)

Case No. M-19-0632-M

David J. Bradley, Clerk of Court

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of March 15, 2019 in the county of Starr in the
Southern District of Texas, the defendant(s) violated:

Code Section

18 United States Code 554

Offense Description

It shall be unlawful for any person to fraudulently or knowing export or send from the United States, or attempt to export or send from the United States, any merchandise, article, or object, to wit: (1) Sig-Sauer 380 Auto, (1) Beretta 22 LR, (1) Glock 17 9mm, (1) Glock 19 9mm, (1) Smith and Wessen 9mm, (1) Sig Sauer 9mm, (2) 20 round boxes of 308 caliber ammunition, one (1) 20 round box of 30-30 caliber ammunition, and 12 pistol magazines.

This criminal complaint is based on these facts:

"See Attachement"

☒ Continued on the attached sheet.

s/Rafael Garza Jr.

Complainant's signature

Rafael Garza, Jr. HSI Special Agent

Printed name and title

Sworn to and executed by reliable
electronic means, per FRCrP 4.1, &
probable cause found on: 3/16/19 @ 3:21 pm.Date: 03/16/2019City and state: McAllen, Texas

Judge's signature

J. Scott Hacker, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

On March 15, 2019, Homeland Security Investigations (HSI), Specials Agents (SA) from the office of the Resident Alien in Charge, Falcon Heights, Texas responded to the Falcon Dam Port of Entry in Falcon Heights, TX, relating to the seizure of six (6) pistols, 12 ammunition magazines and 60 rounds of assorted ammunition.

On March 15, 2019, United States Customs and Border Protection Officers (CBPOs) working the outbound travel lane at the Falcon Dam International Port of Entry (POE) in Falcon Heights, Texas, observed a 2009 Dodge Ram enter the outbound travel lane and was selected for inspection. On primary, CBPOs observed an excess of items in the bed of the truck to include, fridge, washer, dryer, and other miscellaneous items. A CBPO obtained a negative declaration for ammunition, firearms, and monetary instruments in excess of ten thousand dollars (\$10,000 USD) from the driver Guadalupe Horacio GARZA-Cavazos. Two passengers were identified as Javier MARTINEZ and Maria LEAL de Garza (wife of GARZA-Cavazos).

During secondary inspection CBPOs located a tan/brown in color, IGLOO 152 qt. ice chest which was carrying several boxes of soft drinks along with other miscellaneous items. During the inspection of one 24-pack of Coca-Cola which was located at the very bottom of the ice chest, it was found that it did not contain any Coca-Cola cans inside. CBPO observed that the box was open and contained several packages that were wrapped in aluminum foil. During the inspection of these packages the following items were discovered: Sig-Sauer 380 Auto, Beretta 22 LR, Glock 17 9mm, Glock 19 9mm, Smith and Wessen 9mm, Sig Sauer 9mm. Also discovered were two (2) 20 round boxes of 308 caliber ammunition, one (1) 20 round box of 30-30 caliber ammunition, and 12 pistol magazines.

HSI SAs read GARZA-Cavazos his rights in the Spanish language which he stated he understood and waived his right to have an attorney present. During the interview GARZA-Cavazos stated that on March 14, 2019 at approximately 5:00 PM while he was

sitting on the front porch of his house in Jacinto City, TX, an unknown male subject pulled up and stated that he was a friend Felimon ROJAS (ex-coworker friend of GARZA-Cavazos). GARZA-Cavazos stated that he had never met the unknown male subject prior to this encounter and had been three months since he had last spoken to ROJAS. GARZA-Cavazos stated the unknown male subject asked GARZA-Cavazos if he could transport 3 boxes of Coca-Cola to Villa Santiago, Nuevo Leon, MX. The unknown male subject placed three boxes of Coca-Cola inside an ice chest that GARZA-Cavazos had on his front porch without GARZA-Cavazos informing the unknown male subject that he was taking that specific ice chest to Villa Santiago, MX. GARZA-Cavazos was given \$20 U.S. dollars and was told that someone would pick up the Coca-Cola cans in Villa Santiago, MX. GARZA-Cavazos stated that approximately 8:00 PM, he loaded the ice chest in the bed of the Dodge Ram and added more items inside the ice chest. GARZA-Cavazos stated that the ice chest has always remained outside his house along with items that he was going to take to Mexico. GARZA-Cavazos stated that he did not physically inspect the Coca-Cola boxes even though he stated that he had previously been arrested in Mexico for transporting weapons and ammunition that were discovered inside a washing machine. GARZA-Cavazos stated that he no phone numbers and way to contact and doesn't not know the cell phone numbers for the unknown subjects nor for Filimon ROJAS. A database check revealed that on December 11, 2015 GARZA-Cavazos was arrested in Mexico for weapons and ammunition.

HSI SA interviewed LEAL-de Garza which gave various conflicting statements contradicting those from GARZA-Cavazos.

According to the U.S. Department of State, Office of Defense Trade Controls Compliance (DTCC), ammunition is determined to be a defense article described on the United States Munitions List (USML) and regulated for export pursuant to the Arms Export Control Act (22 U.S.C. 2778). The pistols, the assorted ammunition and pistol magazines are covered under Category III (a) on the USML and Guadalupe Horacio GARZA-Cavazos does not posses a license to export into Mexico.